

IDAPA 37.03.09  
Negotiated Rule Making  
October 6, 2006

Negotiated Rule Making commenced on Friday, October 6, 2006 at 8 AM MDT. This meeting was conducted using the University of Idaho's teleconferencing system, and stakeholders participated from locations in Twin Falls, Coeur d'Alene, Idaho Falls, and Boise. The complete meeting was recorded, and is summarized below.

The Facilitator reviewed ground rules for participation by rulemaking committee and other stakeholders. There was a brief discussion concerning ground rules that limited participation of the general public in favor appointed committee members. The result of this discussion was that all individuals participating in the meeting would be free to fully participate but members of the public were encouraged to use committee members to increase the efficiency of discussions.

***PVC Casing and Liner***

Steve Gross and Mike Benet, both representatives of the CertainTeed Manufacturing joined the Committee by telephone along with . The representatives discussed the use of polyvinyl chloride (PVC) pipe, screen, and fittings in water wells. The Committee posed numerous questions regarding the use of PVC pipe as casing and as liner. Casing is pipe used to maintain the physical integrity of a boring, whereas liner is used inside another pipe or in a solid, self-supporting hole. When used as liner, the pipe is not required to maintain the physical integrity of the borehole.

***Strawman Proposal***

Jim Rush of Rocky Mountain Environmental provided a brief summary of the revised strawman proposal (excluding language regarding the sealing of wells and borings which will be discussed at future committee meetings).

- ☐ Rocky Mountain Environmental explained that the revised strawman included language regarding size of wells based on anticipated yield, requirements for plumbness and alignment, well development and testing, well abandonment, and heat pump wells. Rocky Mountain Environmental explained that while committee had discussed eliminating some language, Rocky Mountain Environmental re-inserted plumbness and alignment and casing diameter table based on its best technical recommendations concerning rule language. This was in response to IDWR asking Rocky Mountain to provide its professional recommendation.
- ☐ The strawman requirements were compared to parts of the well standards implemented in MT, WA, and OR.
- ☐ The strawman eliminated language that authorized the Director IDWR to waive the minimum distances from contaminant sources established by IDEQ and District Health Department. Rocky Mountain Environmental proposed that resolution of any issues of compliance should be resolved as a contract issue between the well owner and well driller.
- ☐ The Committee discussed the sand production limits set forth in the strawman proposal. These numerical standards were copied from the National Ground Water Association's Manual of Water Well Construction Practices. The Committee was almost unanimous in the view that sand production should be minimized, but felt the numerical standards in the strawman were too stringent and were based on consumer issues rather than resource protection. The resource protection issue was identified as the need for the rule to regulate sand production that "mine" the formation potentially resulting in well collapse. Suggestions to use sand weight or volume limits were suggested as possible alternative approaches.
- ☐ 37.03.07.025.14. Pitless Adapters. The Committee discussed extensively the strawman's language prohibiting cutting of opening using a torch. Stakeholder could not reach consensus on whether cutting into the casing to install a pitless was a modification of a well which would require a driller's license. Many stakeholders argued that cutting the casing was not inspected by any state agency and that there are practitioners with many years of experience in the

task. Others argued that improperly installed pitless adapters are among the most common problems with well integrity and that lack of regulation and inspection poses a threat to the resource. A baseline suggestion that the statement “a pitless adapter shall not leak” was generally accepted. The details ensured in the rules of “who” and “how” this will be ensured was less clear.

### ***Driller Concerns and Feedback***

Brett McCarty shared with the committee a variety of concerns shared by many in the drilling community. One of the chief concerns was a statement made at a previous meeting that IDWR intended to make substantial changes to proposed rules after negotiated rulemaking committee had finished its work. Mr. McCarty said that this would be absolutely unacceptable. Mr. McCarty stated that good faith negotiation requires that IDWR present its proposed language to the committee and let the committee know what language is or is not acceptable.

Mr. McCarty then recommended changes to the rules including new definition of an “unusable well,” and changes to other parts of the rule consistent with comments he provided to IDWR in writing posted on the Website as

[http://www.idwr.state.id.us/wellrulemaking/McCartney\\_Comments.pdf](http://www.idwr.state.id.us/wellrulemaking/McCartney_Comments.pdf)

### ***Next meeting and schedule.***

The Committee was tentatively scheduled to meet on October 20 and November 3, 2006.

However, using the University of Idaho video conferencing facilities during weekdays results in only four or five hours of meeting time on these dates. Stakeholders observed that more time may be required to negotiate (particularly with the topic of seals still ahead) and that meetings every two weeks does not provide adequate time to evaluate the proposed revisions proposal and to prepare suggest improvements.

The facilitator committed to identifying alternative dates between October 28<sup>th</sup> and November 11<sup>th</sup> to provide a larger gap between meetings as well as opportunities for longer meetings.

### ***Shifting from Revision of Strawman to IDWR Proposed Rule Revision***

The Committee requested that the IDWR identify and outline the Department’s requirements and priorities for the revision of IDAPA 37.03.09. At the next meeting, the Committee will review and negotiate the Department’s draft revision to IDAPA 37.03.09 and no longer discuss Rocky Mountain Environmental’s strawman proposal.

### ***Next Committee Meeting***

The next committee meeting was scheduled for Saturday, November 3, 2006, dependent upon availability of the University of Idaho’s tele-conferencing facility (NOW CONFIRMED).